IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.8132 OF 2004

WITH

WRIT PETITION NO.8133 of 2004

Bahubali Zilla Nagari Sahakari
Pat-Sanstha Ltd, Jaysingpur, .. Petitioner.

Vs

Shri Annasaheb Dundappa Danole & ors. Respondents

Mr A.A.Kumbhakoni, for the petitioner.

Mr T.S.Ingale, for the respondents.

CORAM : D.B.BHOSALE,J.

DATE : 18th October, 2004.

PC:

1. These two writ petitions challenge the two orders, both dated 15.5.2004, passed below the applications-Exhibit 5 and Exhibit-43 in S.C.C.K.No.945 of 1998. Both the applications were filed by the petitioner

2. I perused the impugned orders. On 17.6.1998, the Co-operative Court passed ad-interim order below Exhibit-5. The operative part of that order reads thus:

> "1) Opponent No.1 is hereby restrained and prohibited from disposing of his properties as mentioned in the application or creating any charge, interest or encumbrances on the said properties until further order.

2) Opponent no.4 is hereby directed to keep the present position of the properties as mentioned in the application as it is, until further order.

3) Issue show cause notice to the opponent nos. 1 to 4 as to why these orders should not be made absolute and as to why once prayers made in the interim application should not be granted along with suit summonses to all opponents, R/o 4.7.1998."

3. While disposing of Exhibit-5-application, by order dated 18.5.2004 the Co-operative Court maintained the order passed in terms of paragraph 1 of the order dated 17.6.1998 till the final disposal of the dispute and the order in terms of paragraph 2 of the said order was vacated. By the order in terms of paragraph 2, respondent no.4 was directed to maintain status-quo of the properties referred to in the application until further order. The properties referred to in the paragraph 2 were admittedly mortgaged with respondent no.5. Respondent no.5 has already obtained the recovery certificate under section 101 of the Maharashtra Co-operative Societies Act, 1960 against respondent no.5-society and in view thereof, the Co-operative Court, while disposing of Exhibit-5 application seems to have vacated the order in terms of paragraph 2. Keeping that in view and considering that there are concurrent

findings recorded by the Courts below and as I find that there is sufficient material on record to sustain those findings and considering the extremely limited jurisdiction of this Court under Article 227 of the Constitution of India to disturb the findings of fact, the present writ petition against the order dated 15.5.2004 passed below Exhibit-5, is rejected.

4. In so far as the order below Exhibit-43 application is concerned, in my opinion, that does not cause any prejudice whatsoever to the petitioner and,therefore, deserves no interference by this Court in its writ jurisdiction. The writ petition accordingly fails and is dismissed as such.

5. Keeping in view that the Bank and the credit society are involved in the suit, the trial Court will endeavour to dispose of the suit as expeditiously as possible and preferably within a period of nine months from the date of receipt of this order. The petitioner to communicate this order to the trial Court within four weeks from today.

. An authenticated copy of this order may be made available to the parties.

(D.B.BHOSALE, J.)